IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4073 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)
Versus
NANIBEN DULABBHAI PATEL & 1 - Respondent(s)

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Appearance :
Mr. Dipen Desai, AGP for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
MR AJ PATEL for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 21/04/2006

ORAL JUDGMENT

Rule. By way of the present petition under Article 226/227 of the Constitution of India, the petitioner, State of Gujarat, through Collector, Surat, has challenged the legality and validity of

the judgment and order passed by the Principal Secretary (Appeals), Revenue Department, State of Gujarat, dated 19.1.2000 in Revision Application SRD No.4/97.

2. It appears from the record that the respondent No.1 sold the land in question to the respondent No.2 by registered Sale Deed and necessary Entry was mutated in the Revenue record vide Entry No. 1641 dated 29.4.1992. It appears from the record that the Collector, Surat initiated suo motu proceedings by taking the aforesaid Entry under suo motu revision after a period of 4 years alleging inter alia that the transaction is in breach of Section 2(6) and Section 63 of the Bombay Tenancy and Agricultural Lands Act [“the Tenancy Act” for short]. The Collector, Surat, by judgment and order dated 1.9.1996/6.9.1996 set aside the Entry No. 1641 dated 29.4.1992. Being aggrieved and dissatisfied with the same, the respondents preferred Revision Application SRD No. 4/97 before the Principal Chief Secretary, Revenue Department, State of Gujarat and the

revisional authority by judgment and order dated 19th January 2000 allowed the said revision application quashing and setting aside the order passed by the Collector, Surat dated 1.9.1996/6.9.1996. Being aggrieved and dissatisfied with the same, the State Government, through Collector, Surat, has preferred the present Special Civil Application after a period of almost 6 years of passing the said order. It is required to be noted that the Entry No. 1641 dated 29.4.1992 was taken under suo motu revision after a period of four years of the transaction, and even the present Special Civil Application has been filed by the Collector, Surat, after a period of 6 years of passing the impugned judgment and order dated 19.1.2000 and there is no explanation whatsoever for the delay in preferring the present Special Civil Application. Considering the above, the present Special Civil Application is not required to be entertained and the same is required to be dismissed. Apart from the fact that in RTS proceedings, the Revenue authority has no jurisdiction to consider whether there is breach of the provisions of the

Tenancy Act or not while considering the matter under the provisions of the Bomby Land Revenue Code.

3. Under the circumstances, there is no substance in the present Special Civil Application and the same is dismissed. Rule is discharged.

[M.R. Shah, J.]

RMR.